

Response dated 07/01/2005
Response to Office Action mailed 04/01/2005

Application No. 10/667,954

REMARKS

The Office Action mailed April 1, 2005 has been carefully reviewed and these remarks are responsive thereto. Reconsideration and allowance of the instant application are respectfully requested.

Claims 1-9 are pending in this application. Claims 1-9 have been rejected.

In the Specification

The specification is objected to for failing to provide proper antecedent basis for the claimed subject matter, specifically "continuous arcuate section." Applicant respectfully submits that there is proper antecedent basis for the claimed subject matter. Application paragraph 24, with reference to the drawings, describes the retention wall 48 as comprising a first arcuate section 50, which is shown clearly in the figures (for example, in figure 4) as extending continuously from the handle 36 to the leading edge 32. The specification further notes that, in a preferred embodiment, the arcuate section is the arc of a circle. Thus, the necessary support required by 37 CFR §1.75(d)(1), such that the meaning of the term is ascertainable by reference to the description, is provided. Applicant respectfully submits, therefore, that this objection be withdrawn.

Claim Rejections Under 35 USC §103

Claims 1-4, 6 and 7 stand rejected under 35 USC §103(a) for being unpatentable over Robertson, U.S. Patent No. D468,106. Applicant respectfully submits that Robertson neither discloses nor suggests the invention as presently claimed. Reconsideration and withdrawal of this rejection is requested.

Robertson discloses a dustpan having a tray with a leading edge along one side and a retention rib extending around the other sides. A handle is connected to the rib, the handle being

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distinctly angled with respect to the leading edge. Thus, the handle does not form a generally right angle with the leading edge. In addition, the retention rib of the dustpan extends in straight sections from both sides of the leading edge. The curvature in the retention rib occurs at a position part way around the rib, distanced from the leading edge, as can be seen, for example, in figures 1, 13 and 14 of Robertson. Thus, the arcuate section does not extend continuously from one side of the leading edge to the handle. Robertson therefore fails to teach every element of the invention of claim 1.

At the time the invention was made, the subject matter of claim 1 as a whole would not have been obvious to a person having ordinary skill in the art. Robertson does not disclose, teach or suggest the combination of features of claim 1. Furthermore, the features of claim 1 provide particular advantages over the disclosure of Robertson. As stated in paragraph 25 of the application, the configuration of the straight section in combination with the leading edge enables positioning of the end of the tray in difficult to reach places, such as corners, thus facilitating the transfer of trash or dust into the tray. Furthermore, the arcuate section facilitates movement of trash along its periphery, and improves the funneling of trash when emptying the tray. The dustpan disclosed in Robertson has a different configuration from that defined by claim 1 of the application. There is nothing to suggest that the dustpan of Robertson facilitates movement of dust or trash or the funneling of trash equally well to the dustpan of claim 1, the advantages of which are set forth in the specification.

Thus, it can be seen that the configuration of the dustpan according to the invention provides functional benefits. The continuous arcuate section is not shaped to match the shape of the broom head. It can be seen from the drawings accompanying the application, in particular figure 1 thereof, that the continuous arcuate section in no way follows the contours of the broom

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head. Alternative configurations of this part of the rib could be realized that would more closely match the shape of the broom head. The continuous arcuate section is used, however, because of the functional benefits that it provides.

Furthermore, Robertson provides no teaching or motivation whatsoever for the skilled person to provide a dustpan and broom kit according to the present invention. There is nothing in Robertson to suggest that a rib defining a continuous arcuate section extending from one side of the leading edge to the handle should be provided. It would, therefore, not have been obvious for the skilled person to modify the Robertson dustpan to obtain the invention and, furthermore, there would have been no reason from the teaching of Robertson for the skilled person to attempt to do so. Accordingly, applicant respectfully submits that claim 1 is patentable over Robertson under 35 USC §103(a).

Claims 2 to 4, 6 and 7 each depend from claim 1. As discussed above, Robertson does not disclose, teach or suggest the invention of claim 1. For these same reasons, Robertson does not disclose, teach or suggest the invention of claims 2 to 4, 6 and 7, and claims 2 to 4, 6 and 7 are not obvious.

Claims 5, 8 and 9 stand rejected under 35 USC §103(a) for being unpatentable over Robertson, US Patent No. D468,106 in view of Petner, US Patent No. 5,839,145.

Claims 5, 8 and 9 each depend on claim 1. As discussed above, Robertson does not disclose, teach or suggest the invention of claim 1. For these same reasons, Robertson does not disclose, teach or suggest the invention of claims 5, 8 and 9. Further, Petner, which does not disclose a dustpan with an arcuate section, does not provide any teachings to cure the deficiencies of Robertson.

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Accordingly, neither Robertson nor Petner, either alone or in combination, disclose, teach or suggest the invention of claims 5, 8 and 9, and claims 5, 8 and 9 are not obvious.

Reconsideration and withdrawal of these rejections are requested.

CONCLUSION

All rejections having been addressed, applicant respectfully submits that the instant application is in condition for allowance and respectfully solicits prompt notification of the same.

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Respectfully submitted,



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